

**FINAL REPORT
OF THE
INTERIM STUDY COMMITTEE ON
AGRICULTURE AND ANIMAL ISSUES**



**Indiana Legislative Services Agency
200 W. Washington St., Suite 301
Indianapolis, Indiana 46204-2789**

November, 2001

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Interim Study Committee on Agriculture and Animal Issues

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FINAL REPORT

Interim Study Committee on Agriculture and Animal Issues

I. LEGISLATIVE COUNCIL DIRECTIVE

The Legislative Council directed the Committee to study the following topics:

- A. Regulation of Pet Stores (HR 115)
- B. Ethanol Use and Ethanol Production Facility Funding (ESB 456)
- C. Corn Marketing Council (HR 139)
- D. Agricultural Marketing (HR 123)
- E. Genetically Engineered Seeds and Other Genetically Modified Organism (GMO) Issues (Legislative Council)

II. INTRODUCTION

The Committee focused its efforts in primarily two areas. The first dealt with the production and use of ethanol and the phase out of the fuel additive MTBE (ESB 456 and HR 123). The second dealt with issues related to seeds and seed contracts ,in particular, the issues related to contracts used when planting genetically engineered seeds (Legislative Council). The Committee also discussed the need for regulation of pet stores (HR 115). The Committee felt that issues related to the Corn Market Council had been addressed sufficiently during the 2001 legislative session and did not devote time specifically to that issue.

III. SUMMARY OF WORK PROGRAM

The Committee held meetings on the following three dates: August 24, September 7, and October 12. During the first meeting, the Committee heard testimony and discussed issues related to ethanol, ethanol production facilities, and the role of ethanol as a fuel additive. In the second meeting, the Committee heard testimony and discussed issues related to genetically engineered seeds and the regulation of pet stores. The October 12 meeting was devoted primarily to considering and adopting the final report, discussing SB68-2001, and concluding the business for the Interim.

IV. SUMMARY OF TESTIMONY

(A) Issues related to ethanol.

Testimony on ethanol came from a representative of the Corn Grower's Association, representatives from various fields within the petroleum industry, an independent consultant, and an ethanol producer. All of those that spoke discussed the importance of the federal motor fuel tax in encouraging the use of ethanol and the role of ethanol as an important gasoline additive in areas where regulations require oxygenates to be added to gasoline.

The representative of the Corn Grower's Association spoke primarily on ethanol production and the ethanol market. He asked that the Committee take an active role in promoting the ethanol production in Indiana. He suggested the use of a producer incentive of \$0.20 per gallon of ethanol produced for the first 15 million gallons produced in farmer-owned coops to encourage ethanol production in Indiana.

Representatives of the petroleum industry discussed the logistics and marketing issues related to "boutique fuels." Representatives of the industry also spoke on the use of ethanol as a substitute for the additive MTBE in geographical areas that require oxygenates. Testimony suggested that ethanol is used far more prevalently in Indiana than MTBE as a fuel additive. Testimony from the industry representatives also pointed that an increased in ethanol use could cause a decrease in the amount of federal highway funds the state receives¹. The representatives also asked that the industry be given at least four years to make the necessary adjustments if the General Assembly decides to ban the use of MTBE in Indiana.

An independent consultant raised several concerns about mandating the use of ethanol instead of MTBE. He indicated that it was important to consider the implications of expanding an industry, such as ethanol, that is dependent on subsidies. He also stated that a broad mandate requiring the use of ethanol would likely cause a short-term disruption in the supply of fuels.

An official with a company that produces ethanol discussed the potential for growth in ethanol demand, as more states consider replacing MTBE with ethanol. He also stated that railroads and waterway operators can meet any increased transportation requirements.

(B) Issues related to seeds and seed contracts.

¹ Gasoline and gasohol (a mixture of 90% gasoline and 10% ethanol) are assessed a per gallon federal excise tax of 18.4 cents per gallon and 13.0 cents per gallon, respectively. States receive a portion of the federal excise taxed that are paid by motorist in each state based on a federal formula.

The testimony related to seeds and seed contracts primarily focused on some of the issues that have arisen as result of the technology that allows the modification of genetic material. Some of the concerns raised included the contracts that farmers sign when they purchase the seed, the protection of patented genetic material, farmers saving of seed, consolidation in the seed industry, and the recovery of investments made in biotechnology.

Two farmers testified that they had been sued by the Monsanto Company as a result of their alleged improper use of patented, genetically modified seeds. The farmers testified that they had not intentionally planted the affected crops, but were nonetheless subject to lawsuits. The farmers expressed concern about the validity of the testing of the plants in their fields as well as the absence of any tolerance levels in the contracts that the company requires farmers to sign when growing the crops. Two other farmers expressed concerns that they had little choice but to purchase genetically modified seeds-seeds which, as a condition of their purchase, expressly prohibit them from saving the seeds for replanting the next year. The farmers said that yearly purchase of seeds had increased their costs. These farmers also raised the issue that farmers in Argentina are not subject to the same cost and fee requirements to use the same seed and chemicals as farmers are in the United States.

A law professor from Indiana University discussed the development of the laws that affect the patentability of plant material. He also discussed a case that is before the United States Supreme Court that may address the extent to which utility patent law will cover aspects of a patented plant's characteristics. A researcher from Purdue discussed the role of public research in exploring and disseminating new varieties of crops.

Representatives of the seed industry discussed some of the issues from the industry's standpoint and a number of the benefits of biotechnology to farmers and the state. The owner of a small Indiana seed company stated the importance of recouping the investments made in developing new seed. He also made the point that patents do expire, allowing others eventual access to patented technology. Another speaker for the seed industry said that farmers chose biotechnology because it is more economical. He noted that estimates indicate that Indiana farmers will save \$30 million in chemical costs yearly as a result of the genetically modified seeds. Another seed industry representative stated that it is the job of the U.S. Congress to resolve patent issues. The last representative from the industry stressed the fact that biotechnology requires extensive investment and that at least one major biotech company is located in Indiana.

The Farm Bureau representative stated that the Bureau supported biotechnology but did not want its members taken advantage of by seed and biotech firms. He further said that the intellectual property rights were as important as the property rights of a farm.

Several Committee members raised concerns with the current practice of buying and

growing genetically modified seeds. Some of their concerns included unequal pricing, liability for having unintended plants in the field, the inability to save seed, current practices used to test seed, and the technology fees charged by seed companies.

(C) Issues related to the regulation of pet stores.

Testimony on the regulation of pet stores began with a introduction by Rep. Cheney of HB 1277-01. Testimony from the Board of Animal Health indicated that the Board relied on the public to report problems. The Board receives fewer than 10 complaints each month. A member of the pet store industry spoke on some of the issues with related to regulation. He noted that some pet stores that are currently operating that sell dogs may choose to be licensed by the United States Department of Agriculture. Another person testified on the need to protect animals in pet stores from unhealthy or unsanitary conditions.

V. COMMITTEE FINDINGS AND RECOMMENDATIONS

The Committee considered recommendations related to several issues; including, ethanol, seeds and seed contracts, and food bioterrorism. The Committee did not present any recommendations related to the regulation of pet stores or the Corn Marketing Council.

(A) Issues related to ethanol.

The Committee recommends that the General Assembly enact PD 3291 changing the effective date to after July 23, 2004. This recommendation passed with a 7-0 vote.

(B) Issues related to seed and seed contracts.

The Committee voted to recommend the concepts behind PD 3241 with the recommendation that further discussion be pursued to address expanding the authority of the Seed Arbitration Council to address some of the Committee's concerns with seed contracts. This recommendation passed on a vote of 7-1

(C) Food Bioterrorism

The Committee recommends that the General Assembly enact PD 3295, as amended. The recommendation passed on a 7-0 vote.

The Committee recommends that the Legislative Council adopt a resolution encouraging the President of the United States to appoint a specialist within the Office of Homeland Security to help safeguard agriculture and the nation's food supply from terrorism. The recommendation passed on a 7-0 vote.

The Committee adopted the Final Report on a 7-0 vote.

WITNESS LIST

Mark Aylesworth, Indiana Corn Growers Association

Travis Brown, Monsanto Company

Sue deVaucenne, Animal Protection Council

Gary Haynes, Indiana Board of Animal Health

Cress Hizer, CEO of Indiana Agribusiness Associations

Tom Hopper, Indiana Seed Trade Association

Nathan Kimpel, Chief Operating Officer, New Generation Corp.

Charlie Kirk, Dow Agro Sciences

Bob Kraft, Indian Farm Bureau

J.B. Ladd, Farmer, Miami County

Marshall Leaffer, Distinguished Scholar in Intellectual Property Law, Indiana University

Mike Leister, Fuel Technology Manager, Marathon Ashland Petroleum

Steve Ludwig, Executive Director Indiana Soybean Growers Association

Rodney Nelson, Farmer, North Dakota

Larry Nees, Seed Administrator, Office of the Indiana State Seed Commissioner

Mark Palmer, Pioneer Hi-Bred

Stan Pinegar, Indiana Petroleum Council

Mike Pitts, Indiana Petroleum Marketers and Convenience Store Association

Jake Secor, DowAgro Sciences

Jim Stewart, Stewart Seed

Joe Street, Pet Industry Advisory Council

G. Philip Tevis, Independent Consultant

Troy Rousch, Farmer, Grant County

Dr. Randy Woodson, Director of Agricultural Research, Purdue.

Don Zollman, Farmer, Warsaw